

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

MOLDEX-METRIC, INC., Plaintiff, vs. 3M COMPANY and 3M INNOVATIVE PROPERTIES COMPANY, Defendants.	Civil No. 14-1821 (JNE/FLN)
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**DECLARATION OF CHAD DROWN IN SUPPORT OF 3M’S BRIEF IN
OPPOSITION TO MOLDEX’S MOTION FOR PARTIAL SUMMARY
JUDGMENT ON ITS SHAM LITIGATION AND MALICIOUS PROSECUTION
CLAIMS REGARDING THE ’693 PATENT AND 3M’S BRIEF IN OPPOSITION
TO MOLDEX’S MOTION FOR SUMMARY JUDGMENT ON
3M’S “UNCLEAN HANDS” AFFIRMATIVE DEFENSE**

I, Chad Drown, declare as follows:

1. I am an attorney at Faegre Baker Daniels LLP. I am one of the lawyers representing 3M Company and 3M Innovative Properties Company (collectively, “3M”) in connection with the above-captioned action. This declaration is made on my personal knowledge and belief. In the description of the exhibits, I refer to the prior patent case, *3M Co. v. Moldex-Metric*, Civil No. 12-611 (D. Minn.), as “the Patent Case.”

2. I have attached to this declaration a true and correct copy of the following documents:

EXHIBIT 1. U.S. Patent No. 6,070,693.

EXHIBIT 2. U.S. Patent No. 7,036,157.

- EXHIBIT 3.** U.S. Patent No. 5,936,208.
- EXHIBIT 4.** Prosecution History of U.S. Patent No. 5,936,208.
- EXHIBIT 5.** Prosecution History of U.S. Patent No. 6,070,693.
- EXHIBIT 6.** First Amended Complaint, January 22, 2016.
- EXHIBIT 7.** Complaint in Patent Case, March 8, 2012.
- EXHIBIT 8.** Complaint in *Moldex-Metric v. 3M Co. et al.*, Civil No. 14-2921 (C.D. Cal.), Apr. 16, 2014.
- EXHIBIT 9.** 3M's Infringement Contentions in Patent Case, Aug. 1, 2012 (excerpts).
- EXHIBIT 10.** Joint Claim Construction Statement in Patent Case, Nov. 1, 2012.
- EXHIBIT 11.** Deposition of Dr. Kenneth Cunefare, Feb. 26, 2016 (excerpts and highlighting added).
- EXHIBIT 12.** Scheduling Order, Docket 70, Apr. 6, 2015.
- EXHIBIT 13.** First Amended Scheduling Order, Docket 128, Nov. 2, 2015.
- EXHIBIT 14.** Scheduling Order in Patent Case, June 14, 2012.
- EXHIBIT 15.** Moldex's Brief in Opposition to Summary Judgment in Patent Case, Mar. 1, 2013. (*Filed Under Seal.*) (Public version available at Patent Case Dkt. No. 48.)
- EXHIBIT 16.** Moldex's Summary Judgment Reply Brief in Patent Case, Mar. 7, 2013. (*Filed Under Seal.*) (Public version available at Patent Case Dkt. No. 53.)

- EXHIBIT 17.** Transcript of Motion to Dismiss Hearing, Oct. 30, 2014 (excerpts and highlighting added).
- EXHIBIT 18.** Letter from Eileen Hunter, Jan. 29, 2016.
- EXHIBIT 19.** 3M's First Set of Interrogatories, Apr. 8, 2015.
- EXHIBIT 20.** Moldex's Responses to First Set of Interrogatories, May 11, 2015.
- EXHIBIT 21.** Moldex's Supplemental Responses to First Set of Interrogatories, June 22, 2015.
- EXHIBIT 22.** Moldex's Second Supplemental Responses to First Set of Interrogatories, Oct. 2, 2015.
- EXHIBIT 23.** Moldex's Supplemental Responses to Interrogatories No. 2 and No. 5, Jan. 27, 2016. (*Filed Under Seal.*)
- EXHIBIT 24.** Expert Report of Dr. Sigfrid Soli (excerpts and highlighting added). (*Filed Under Seal.*)
- EXHIBIT 25.** 3M's First Set of Requests for Admission, Aug. 31, 2015.
- EXHIBIT 26.** Moldex's Responses to First Set of Requests for Admission, Sept. 30, 2015.
- EXHIBIT 27.** 3M's Responses to Third Set of Interrogatories, Oct. 30, 2015. (*Filed Under Seal.*)
- EXHIBIT 28.** U.S. Patent No. 5,113,967.
- EXHIBIT 29.** U.S. Patent No. 4,852,683.
- EXHIBIT 30.** Answer to First Amended Complaint, Feb. 5, 2016.
- EXHIBIT 31.** Letter from David Gross and Exhibits A-K, Feb. 4, 2016.

- EXHIBIT 32.** 3M's Amended Responses to Interrogatories No. 3 and No. 9, Nov. 24, 2015. (*Filed Under Seal.*)
- EXHIBIT 33.** 3M's Supplemental Responses to Interrogatory No. 13, Feb. 24, 2016. (*Filed Under Seal.*)
- EXHIBIT 34.** Moldex's Responses to 3M's Second Requests for Admission, Mar. 10, 2016.
- EXHIBIT 35.** Moldex's Responses to 3M's Fourth Set of Interrogatories, Mar. 10, 2016.
- EXHIBIT 36.** Deposition of Elliot Berger, Oct. 8, 2015 (excerpts and highlighting added). (*Filed Under Seal.*)
- EXHIBIT 37.** Deposition of Daniel Dix, Nov. 30, 2015 (excerpts and highlighting added). (*Filed Under Seal.*)
- EXHIBIT 38.** Deposition of James Hornstein, Sep. 25, 2015 (excerpts and highlighting added). (*Filed Under Seal.*)
- EXHIBIT 39.** Deposition of Bernard Mishkin, Oct. 5, 2015 (excerpts and highlighting added). (*Filed Under Seal.*)
- EXHIBIT 40.** 30(b)(6) Deposition of Kevin Michaels, Oct. 29, 2015 (excerpts and highlighting added). (*Filed Under Seal.*)
- EXHIBIT 41.** Hornstein Deposition Exhibit 1003. (*Filed Under Seal.*)
- EXHIBIT 42.** Hornstein Deposition Exhibit 1006. (*Filed Under Seal.*)
- EXHIBIT 43.** Mishkin Deposition Exhibit 1038. (*Filed Under Seal.*)
- EXHIBIT 44.** Mishkin Deposition Exhibit 1039. (*Filed Under Seal.*)

- EXHIBIT 45.** Gallegos Deposition Exhibit 1066. (*Filed Under Seal.*)
- EXHIBIT 46.** 30(b)(6) Michaels Deposition Exhibit 1113. (*Filed Under Seal.*)
- EXHIBIT 47.** “Hearing Protection Evaluation for the Combat Arms Earplug at Idaho National Laboratory,” 2007, *available at* <https://inldigitallibrary.inl.gov/sti/3661877.pdf>.
- EXHIBIT 48.** “The Army Hearing Program Technician Training Update,” March 2, 2009, *available at* http://myavaa.org/documents/conferences/2009/army-presentations/Ciliax_ArmyHearingTechTraining.pdf.
- EXHIBIT 49.** Compilation of U.S. Army “Wallet Card” for CAEv.2, 3M production document bearing production number 3M00144969-70, and color version of the Wallet Card. (*Filed Under Seal.*)

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: April 22, 2016

/s/ Chad Drown

Chad Drown